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In re Application of : DECISION ON
HASMAN, Erez: :
Application No. 10/519,701 :
PCT No.: PCT/IL2003/000541 :
Int. Filing Date: 26 June 2003 :
Priority Date: 28 June 2002 : PETITION UNDER
Attorney's Docket No.: 0421US-Hasman :
For: GEOMETRICAL PHASE OPTICAL :
ELEMENTS WITH SPACE-VARIANT :
SUBWAVELENGTH GRATINGS : 37 CFR 1.137 (b)

This decision is in response to applicant's "PETITION FOR REVIAVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)," filed on 05 January 2006.

BACKGROUND

On 26 June 2003, this international application was filed, claiming an earliest priority date of 28 June 2002. The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 28 December 2004.

On 24 December 2004, applicant filed a Transmittal letter for entry into the national stage in the United States Patent and Trademark Office (USPTO), which was accompanied by, the basic national fee. No executed declaration or oath was filed at such time.

On 16 June 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the oath or declaration complying with 37 CFR 1.497(a) and (b), identifying the application by the International application number and International filing date must be furnished within the time period set forth. The notification set a two months time limit or 32 months from the priority date for the application, whichever is later to respond, and that failure to properly respond would result in abandonment.

On 05 January 2006, applicants filed the instant petition under 37 CFR 1.137(b).

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting an executed declaration, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1) - (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1),(c)(2), and (c)(4) date of this application is **05 January 2006**.



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